

filed by a petitioner in whole or in part due to the lack of sufficient forfeitable funds to satisfy both the petition and claims of the financial institution regulatory agencies pursuant to 18 U.S.C. 981(e)(3) or (7). Generally, claims of financial institution regulatory agencies pursuant to 18 U.S.C. 981(e)(3) or (7) shall take priority over claims of victims.

(i) *Amount of remission.* Consistent with the Assets Forfeiture Fund statute (28 U.S.C. 524(c)), the amount of remission shall not exceed the victim's share of the net proceeds of the forfeitures associated with the activity that caused the victim's loss. The calculation of net proceeds includes, but is not limited to, the deduction of allowable government expenses and valid third-party claims.

§9.9 Miscellaneous provisions.

(a) *Priority of payment.* Except where otherwise provided in this part, costs incurred by the USMS and other agencies participating in the forfeiture that were incident to the forfeiture, sale, or other disposition of the property shall be deducted from the amount available for remission or mitigation. Such costs include, but are not limited to, court costs, storage costs, brokerage and other sales-related costs, the amount of any liens and associated costs paid by the Government on the property, costs incurred in paying the ordinary and necessary expenses of a business seized for forfeiture, awards for information as authorized by statute, expenses of trustees or other assistants pursuant to paragraph (c) of this section, investigative or prosecutive costs specially incurred incident to the particular forfeiture, and costs incurred incident to the processing of the petition(s) for remission or mitigation. The remaining balance shall be available for remission or mitigation. The ruling official shall direct the distribution of the remaining balance in the following order of priority, except that the ruling official may exercise discretion in determining the priority between petitioners belonging to classes described in paragraphs (a)(3) and (4) of this section in exceptional circumstances:

- (1) Owners;
- (2) Lienholders;

(3) Federal financial institution regulatory agencies (pursuant to paragraph (e) of this section), not constituting owners or lienholders; and

(4) Victims not constituting owners or lienholders (pursuant to §9.8).

(b) *Sale or disposition of property prior to ruling.* If forfeited property has been sold or otherwise disposed of prior to a ruling, the ruling official may grant relief in the form of a monetary amount. The amount realized by the sale of the property is presumed to be the value of the property. Monetary relief shall not be greater than the appraised value of the property at the time of seizure and shall not exceed the amount realized from the sale or other disposition. The proceeds of the sale shall be distributed as follows:

(1) Payment of the Government's expenses incurred incident to the forfeiture and sale, including court costs and storage charges, if any;

(2) Payment to the petitioner of an amount up to his or her interest in the property;

(3) Payment to the Assets Forfeiture Fund of all other costs and expenses incident to the forfeiture;

(4) In the case of victims, payment of any amount up to the amount of his or her loss; and

(5) Payment of the balance remaining, if any, to the Assets Forfeiture Fund.

(c) *Trustees and other assistants.* In the exercise of his or her discretion, the ruling official, with the approval of the Asset Forfeiture and Money Laundering Section, may use the services of a trustee, other government official, or appointed contractors to notify potential petitioners, process petitions, and make recommendations to the ruling official on the distribution of property to petitioners. The expense for such assistance shall be paid out of the forfeited funds.

(d) *Other agencies of the United States.* Where another agency of the United States is entitled to remission or mitigation of forfeited assets because of an interest that is recognizable under this part or is eligible for such transfer pursuant to 18 U.S.C. 981(e)(6), such agency shall request the transfer in writing, in addition to complying with any applicable provisions of §§9.3 through 9.5.

The decision to make such transfer shall be made in writing by the ruling official.

(e) *Financial institution regulatory agencies.* A ruling official may direct the transfer of property under 18 U.S.C. 981(e) to certain federal financial institution regulatory agencies or an entity acting on their behalf, upon receipt of a written request, in lieu of ruling on a petition for remission or mitigation.

(f) *Transfers to foreign governments.* A ruling official may decline to grant remission to any petitioner other than an owner or lienholder so that forfeited assets may be transferred to a foreign government pursuant to 18 U.S.C. 981(i)(1), 19 U.S.C. 1616a(c)(2), or 21 U.S.C. 881(e)(1)(E).

(g) *Filing by attorneys.* (1) A petition for remission or mitigation may be filed by a petitioner or by his or her attorney or legal guardian. If an attorney files on behalf of the petitioner, the petition must include a signed and sworn statement by the client-petitioner stating that:

(i) The attorney has the authority to represent the petitioner in this proceeding;

(ii) The petitioner has fully reviewed the petition; and

(iii) The petition is truthful and accurate in every respect.

(2) Verbal notification of representation is not acceptable. Responses and notification of rulings shall not be sent to an attorney claiming to represent a petitioner unless a written notice of representation is filed. No extensions of time shall be granted due to delays in submission of the notice of representation.

(h) *Consolidated petitions.* At the discretion of the ruling official in individual cases, a petition may be filed by one petitioner on behalf of other petitioners, provided the petitions are based on similar underlying facts, and the petitioner who files the petition has written authority to do so on behalf of the other petitioners. This authority must be either expressed in documents giving the petitioner the authority to file petitions for remission, or reasonably implied from documents giving the petitioner express authority to file claims or lawsuits related to the course of conduct in ques-

tion on behalf of these petitioners. An insurer or an administrator of an employee benefit plan, for example, which itself has standing to file a petition as a “victim” within the meaning of §9.2, may also file a petition on behalf of its insured or plan beneficiaries for any claims they may have based on co-payments made to the perpetrator of the offense underlying the forfeiture or the perpetrator of a “related offense” within the meaning of §9.2, if the authority to file claims or lawsuits is contained in the document or documents establishing the plan. Where such a petition is filed, any amounts granted as a remission must be transferred to the other petitioners, not the party filing the petition; although, in his or her discretion, the ruling official may use the actual petitioner as an intermediary for transferring the amounts authorized as a remission to the other petitioners.

PART 10—REGISTRATION OF CERTAIN ORGANIZATIONS CARRYING ON ACTIVITIES WITHIN THE UNITED STATES

REGISTRATION STATEMENT

Sec.

- 10.1 Form of registration statement.
- 10.2 Language of registration statement.
- 10.3 Effect of acceptance of registration statement.
- 10.4 Date of filing.
- 10.5 Incorporation of papers previously filed.
- 10.6 Necessity for further registration.
- 10.7 Cessation of activity.

SUPPLEMENTAL REGISTRATION STATEMENT

- 10.8 Information to be kept current.
- 10.9 Requirements for supplemental registration statement.

INSPECTION OF REGISTRATION STATEMENT

- 10.10 Public inspection.

AUTHORITY: Pub. L. 772, 80th Cong.; 18 U.S.C. 2386.

CROSS REFERENCES: For regulations under the Foreign Agents Registration Act, see part 5 of this chapter.

For Organization Statement, Internal Security Section, see subpart K of part 0 of this chapter.

SOURCE: 6 FR 369, Jan. 15, 1941, unless otherwise noted.